

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

JASON KUSEL,

Plaintiff,

v.

CASE NO. 21-3007-SAC

**UNITED STATES OF
AMERICA,**

Defendant.

ORDER

Plaintiff filed this *pro se* civil rights case under 42 U.S.C. § 1983. Plaintiff filed a motion for leave to proceed *in forma pauperis*. (Doc. 2.) On January 7, 2021, the Court entered a Notice of Deficiency (Doc. 6), directing Plaintiff to submit his Complaint on the Court-approved form; to submit his motion for leave to proceed *in forma pauperis* on the proper form; and to provide the financial information required by federal law to support his motion. *See* 28 U.S.C. § 1915(a)(2). The Notice of Deficiency was mailed to Plaintiff at his current address of record and was returned as undeliverable. (Doc. 7.) The Court’s Local Rules provide that “[e]ach attorney or pro se party must notify the clerk in writing of any change of address or telephone number. Any notice mailed to the last address of record of an attorney or pro se party is sufficient notice.” D. Kan. Rule 5.1(c)(3).

The Notice of Deficiency provided that if Plaintiff failed to correct the deficiencies by February 8, 2021, “this action may be dismissed without prejudice and without further notice.” (Doc. 6, at 2.) Plaintiff has failed to provide the Court with a Notice of Change of Address and has failed to comply with the Notice of Deficiency by the Court’s deadline.

Rule 41(b) of the Federal Rules of Civil Procedure “authorizes a district court, upon a defendant’s motion, to order the dismissal of an action for failure to prosecute or for failure to comply with the Federal Rules of Civil Procedure or ‘a court order.’” *Young v. U.S.*, 316 F. App’x 764, 771 (10th Cir. 2009) (citing Fed. R. Civ. P. 41(b)). “This rule has been interpreted as permitting district courts to dismiss actions *sua sponte* when one of these conditions is met.” *Id.* (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–31 (1962); *Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003)). “In addition, it is well established in this circuit that a district court is not obligated to follow any particular procedures when dismissing an action *without prejudice* under Rule 41(b).” *Young*, 316 F. App’x at 771–72 (citations omitted).

IT IS THEREFORE ORDERED THAT this matter is **dismissed without prejudice** pursuant to Rule 41(b) for failure to comply with court orders.

IT IS FURTHER ORDERED THAT Plaintiff’s motions (Docs. 2, 3, 4 and 5) are moot and therefore **denied**.

IT IS SO ORDERED.

Dated February 9, 2021, in Topeka, Kansas.

s/ Sam A. Crow
Sam A. Crow
U.S. Senior District Judge